

MARKET CONDUCT EXAMINATION REPORT
AS OF JUNE 30, 2004

Standard Life and Accident Insurance Company
201 Robert Kerr Ave., Suite 600
Oklahoma City, OK 73102

NAIC Company Code: 86355
NAIC Group No: 0408
Colorado Company No: 198

EXAMINATION PERFORMED
for the
STATE OF COLORADO
DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE

**Standard Life and Accident Insurance Company
201 Robert Kerr Ave., Suite 600
Oklahoma City, OK 73102**

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EXAMINATION REPORT
as of
June 30, 2004**

Examination Performed by

**Stephen E. King, CIE
Jo-Anne G. Fameree, CIE, FLMI, AIRC, ACS**

Independent Market Conduct Examiners

July 20, 2005

The Honorable David F. Rivera
Insurance Commissioner
State of Colorado
1560 Broadway, Suite 850
Denver, Colorado 80202

Commissioner:

A market conduct examination of the Standard Life and Accident Insurance Company was conducted in accordance with and pursuant to §§10-1-203 and 10-3-1106, Colorado Revised Statutes. This examination focused on the Company's accident and health insurance business, to include Medicare supplement and Long-Term Care. Examiners completed a review of underwriting, rating, policyholder service, marketing and sales and claims practices. The records/files were examined at the Company's office, located at 1 Moody Plaza, Galveston, Texas 77550.

The time period covered by the examination was from July 1, 2003 through June 30, 2004.

The results of the examination, herein, are respectfully submitted.

Stephen E. King, CIE

Jo-Anne G. Fameree, CIE, FLMI, AIRC, ACS

**MARKET CONDUCT
EXAMINATION REPORT
OF THE
STANDARD LIFE AND ACCIDENT INSURANCE COMPANY**

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COMPANY PROFILE

Standard Life and Accident Insurance Company (“Standard” or “Company”) was incorporated in Oklahoma on February 25, 1976 and commenced business June 1, 1976 as a stock company under the name of American National Life Insurance Company of Oklahoma, domiciled in Oklahoma City, Oklahoma. On March 15, 1976, the American National Insurance Company of Oklahoma filed to change the name of the company to Standard Life and Accident Insurance Company. The Company was licensed in Colorado on December 15, 1976, and currently holds a license to sell Accident & Health, Annuities, Credit (Life, A&H), and General Life insurance in the State of Colorado.

COMPANY OPERATIONS AND MANAGEMENT

The Company is currently licensed and authorized to conduct business in all states, except the following: Maine, New Hampshire, New Jersey, New York and Wisconsin.

Standard uses a distribution channel of independent producers. As of December 31, 2004, the Company had 13,066 agents under contract, with 274 of those being located in the State of Colorado.

Standard focuses primarily on the pre-retiree and senior age markets with products designed to meet the market needs. Products include Medicare supplement, senior preferred whole life, traditional participating whole life insurance, annuities, high deductible health plans, supplemental health plans, and wealth transfer universal life.

In 2004, the Company implemented a strategy to broaden its product offerings. Field focus meetings with top agents resulted in innovative product specifications for development. New products introduced include a HAS-compatible high-deductible health plan, recovery care, participating whole life and a multi-year guarantee annuity series.

In 2003, the Company’s Medicare supplement business represented a 2.73% * share of the Colorado Medicare supplement insurance market, with direct premiums totaling \$3,915,000*. The Company’s Long-term care business represented a .02% * share of the Colorado Long-term care insurance market, with direct premiums totaling \$20,000 *. The Company’s Accident and Health business represented a .57% * share of the Colorado Accident and Health insurance market, with direct premiums totaling \$3,853,000 *.

* Data as reported by the NAIC and published as the “Combined Market Share Report”.

PURPOSE AND SCOPE OF EXAMINATION

Independent Examiners, contracting with the Colorado Division of Insurance (DOI), in accordance with Colorado Insurance Law, §§ 10-1-201, 10-1-203 and 10-1-204 C.R.S., which allows the Commissioner the discretion and authority to schedule and conduct examinations for the purpose of auditing business practices of insurers, reviewed certain business practices of the Company. The findings in this report, including all work products developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law related to accident and health insurance, including, but not limited to Medicare supplement and Long-Term Care. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

Examiners conducted the examination in accordance with procedures developed by the Colorado Division of Insurance, based on model procedures developed by the National Association of Insurance Commissioners. Examiners have relied primarily on records and materials maintained by the Company, generally covering the examination period from July 1, 2003, through June 30, 2004.

The examination included review of the following:

- Company Operations / Management
- Marketing and Sales
- Producers
- Underwriting - Forms / Policyholder Services
- Underwriting - Rating
- Underwriting - Applications
- Underwriting - Cancellations
- Claims

This examination report is a report written by exception. References to any practices, procedures or files, that contained no improprieties, were omitted. Therefore, the majority of the material reviewed may not be addressed in this report. In the course of the examination, Examiners issued the Company Examination Memorandums and Comment Forms to obtain specific information and/or address noted discrepancies. When Examiners issue either form, the Company is required to provide a detailed response, within a specific time frame. Generally, only the Comment Form will cite a specific statute or regulation when a potential non-compliant situation is identified.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed, in most cases, where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

When utilizing a sampling technique to select a sample file population for review, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic or if, as a result of the file selection process, it was not possible to determine an exception percentage, an error tolerance percentage was not utilized. Also, if more than one sample population was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

Examination findings may result in administrative action by the Division of Insurance. During the course of the examination, all unacceptable or non-complying practices of the Company may not have been discovered. However, failure to identify specific Company practices, does not constitute acceptance of such practices. The contents of this report should not be construed to either endorse or discredit any insurance company or product.

EXAMINERS' METHODOLOGY

In accordance with §10-1-203, Colorado Revised Statutes, examiners reviewed the Company's business practices to determine compliance with Colorado insurance laws and regulations, as they pertain to Medicare supplement insurance companies, as shown in the following exhibit.

Law/Regulation	Concerning
Section 10-1-108	Duties of Commissioner – reports – publications – fees – disposition of funds - adoption of rules.
Section 10-1-109	Rules and regulations of commissioner
Section 10-1-111	Grounds and procedure for suspension or revocation of certificate or license of entities.
Section 10-1-128(6)(a)	Anti-fraud Plan
Sections 10-2-1001 to 10-2-1101	Managing General Agent Act
Section 10-2-103	Licenses - General Provisions - Definitions
Sections 10-2-401 to 10-2-417	Licenses – Licensing and Appointment of Insurance Producers
Sections 10-2-701 to 10-2-704	Licenses – Business Conduct of Licensees
Section 10-3-105	Certificate of Authority
Section 10-3-109	Reports, statements, assessments, and maintenance of records - publication - penalties for late filing, late payment, or failure to maintain.
Sections 10-3-1101 to 10-3-1104	Unfair Competition – Deceptive Practices
Sections 10-18-101 to 10-18-109	Medicare Supplement Insurance
Sections 10-19-101 to 10-19-115	Long-term Care Insurance Act
Regulation 1-1-7	Market Conduct Record Retention
Regulation 1-1-8	Penalties And Timelines Concerning Division Inquiries And Document Requests
Regulation 1-2-9	Fees Charged by Agents/Brokers
Regulation 2-1-7	Concerning Issuance of a Certificate of Authority
Regulation 4-3-1	Minimum Standards for Medicare Supplement Policies
Regulation 4-4-1	Concerning Requirements for Long-term Care Insurance
Regulation 4-4-2	Implementation of Basic and Standard Long-term Care Insurance Plans
Regulation 4-4-3	Suitability Standards for Long-term Care Insurance Products

Company Operations / Management

Examiners verified the Certificate of Authority and reviewed Company management, administrative controls, as well as record retention practices.

The Company's cooperation during the course of the examination was noted.

Marketing and Sales

Examiners reviewed all eleven (11) marketing and sales pieces used in Colorado during the examination period. Examiners verified that all required materials had been submitted to the Colorado Division of Insurance. Additionally, the content of the material was reviewed to ensure compliance with Colorado insurance law and to verify that the Company's products were accurately represented.

Producers

Examiners reviewed producer contracts and commission structures used during the examination period. In addition, commission records were reviewed to ensure that all eighty (80) producers, who received commissions or a percentage of premiums, were properly licensed.

Underwriting – Forms / Policyholder Services

Due to the significant number of forms that were in effect, but no longer actively marketed by the Company, Examiners reviewed only the forms relating to policies under which claims were processed during the examination period. Examiners confirmed that the appropriate filings had been submitted to and approvals had been received from the Colorado Division of Insurance. Additionally, compliance with Colorado insurance laws in effect during the examination period was verified.

New Business Underwriting Practices and Rating

Examiners reviewed a sample population of fifty (50) of the Company's Medicare supplement, new business files from a population of 128.

Examiners reviewed a sample population of fifty (50) Medicare supplement, renewed business files from a population of 1598. In addition, a review was performed of all renewed business files for the following lines of business: Nursing Home, twenty-one (21); Major Medical, one (1); Medical Surgical, two (2); Long-term Care, nine (9); Loss of Time, one (1); Hospital Indemnity, six (6); Cancer, forty-four (44); Cancer Accident, one (1); Basic Hospital, two (2); and Basic Accident, fifty (50) from a population of eighty-two (82).

Each file was reviewed to ensure that required disclosures were provided and fair and consistent underwriting and rating practices were used.

Underwriting – Cancellations / Declinations / Rescissions

Examiners randomly selected sample populations of fifty (50) Medicare supplement (policyholder requested) cancellation files, from a population of 285. In addition, a review was performed of all the Company's cancellation files for the following lines of business: Long-term Care, two (2); Nursing

Home, four (4); Hospital Indemnity, one (1); Cancer, two (2); Cancer Accident, one (1); and Basic Accident, two (2).

Each file was reviewed to ensure that both fair and consistent underwriting practices were used, timely notifications were given and, when applicable, premium refunds were timely and accurate.

Claims

Examiners randomly selected sample populations of 100 Medicare supplement, paid claims files from a population of 39,966. Examiners also selected a sample population of fifty (50) Medicare supplement, denied claim files from a population of 2,855. In addition, a review was performed of all paid and denied claims files for the following lines of business: Nursing Home, one (1) paid; Senior Medical Surgical, forty-five (45) paid and four (4) denied; Cancer, one (1) paid and forty-two (42) denied; Cancer Accident, one (1); Medical Surgical, one (1) denied; and Long-term Care, two (2) denied.

Examiners evaluated the Company's claims handling guidelines and specific claim file information, to determine timeliness of processing and accuracy of payment.

EXAMINATION REPORT SUMMARY

The examination resulted in a total of four (4) findings in which the Company did not appear to be in compliance with Colorado insurance law. The following summarizes Examiner findings.

Company Operations / Management: In the area of Company Operations and Management, Examiners found one (1) area of concern. The issue identified was:

- Failure to file the required Annual Report of Policy Forms and Compliance Certificate with the Division.

Marketing and Sales: In the area of Marketing and Sales, no compliance issues or concerns were identified and thus are not addressed in this report.

Producers: In the area of Producers, no compliance issues or concerns were identified and thus are not addressed in this report.

Underwriting – Forms / Policyholder Services: In the area of Forms and Policyholder Services, Examiners found three (3) areas of concern. The issues identified are:

- Failure, in some cases, to incorporate the fraud warning language required by Colorado insurance law.
- Failure to include a policy provision that provides for a refund of unearned premium when a policy is replaced by another Medicare supplement carrier or a request for cancellation is made by the insured.
- Failure to include the definition of “Health care expenses” in policy forms, as required by Colorado insurance law.

New Business Underwriting Practices and Rating: In the area of New Business Underwriting Practices and Rating, no compliance issues or concerns were identified and thus are not addressed in this report.

Underwriting – Cancellations: In the area of Cancellation refunds, no compliance issues or concerns were identified and thus are not addressed in this report.

Claims: In the area of Claims, no compliance issues or concerns were identified and thus are not addressed in this report.

Results of previous Market Conduct Exams are available on the Colorado Division of Insurance's website at www.dora.state.co.us/insurance or by contacting the Colorado Division of Insurance.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

MARKET CONDUCT EXAMINATION REPORT

FACTUAL FINDINGS

<p><u>Company Operations / Management</u></p>
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Issue A1: Failure to file the Annual Report of Policy Forms and Compliance Certificate with the Division.
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Section 10-16-107.2 C.R.S. Filing of health policies, states in part:

(1) All sickness and accident insurers, health maintenance organizations, and nonprofit hospital and health service corporations authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy form, endorsement, or rider for any sickness, accident, nonprofit hospital and health service corporation, health maintenance organization, or other health insurance policy, contract, certificate, or other evidence of coverage issued or delivered to any policyholder, certificate holder, enrollee, subscriber, or member in Colorado. Such listing shall be submitted by January 15, 1993, and not later than December 31 of each subsequent year and shall contain a certification by an officer of the organization that each policy form, endorsement, or rider in use complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(2) All sickness and accident insurers, health maintenance organizations, nonprofit hospital and health service corporations, and other entities providing health care coverage authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any new policy form, application, endorsement, or rider at least thirty-one days before using such policy form, application, endorsement, or rider for any health coverage. Such listing shall also contain a certification by an officer of the organization that each new policy form, application, endorsement, or rider proposed to be used complies, to the best of the insurer's good faith knowledge and belief, with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

Colorado Regulation 1-1-6, Concerning The Elements of Certification for Accident and Health Forms, Private Passenger Automobile Forms, Commercial Automobile with Individually-Owned Private Passenger Automobile-Type Endorsement Forms, Claims-Made Liability Forms, Preneed Funeral Contracts and Excess Loss Insurance in Conjunction with Self-Insured Employer Benefit Plans under the Federal "Employee Retirement Income Security Act", which is promulgated pursuant to §§10-1-109, 10-4-419, 10-4-633, 10-15-105 and 10-16-107.2 and 10-16-119, C.R.S., states in part:

Section 3. Applicability and Scope

This regulation applies to all insurers and other entities authorized to conduct business in Colorado which provide health coverages...

Section 5. Rules

C. Not later than December 31 of each year, each entity providing health care coverages shall file an Annual Report of policy forms including a fully executed certificate of compliance...

Colorado Regulation 4-4-1 Concerning Requirements for Long-term care insurance, promulgated under the authority of §10-1-109(1), 10-3-110(1) and 10-19-113.7 C.R.S., requires in part:

XIII. FILING REQUIREMENT

...In all other instances, insurers, non-profits and health maintenance organizations are required to comply with the appropriate Colorado Insurance Laws and Regulations concerning the filing of forms and rates.

The Company was unable to provide Examiners with a 2003 or 2004 Annual Report of Policy Forms and Compliance Certificate, for the health insurance lines of business.

Based on the Company's inability to provide the requested report/certification, it appears that the Company was not in compliance with the health insurance form requirements of §10-16-107.2 C.R.S. and Colorado Regulation 1-1-6 and 4-4-1, as outlined above, during the examination period.

Recommendation No. 1:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of §10-16-107.2 C.R.S., and Colorado Regulations 1-1-6 and 4-4-1. In the event the Company is unable to show such proof; the Company should provide evidence to the Division of Insurance that it has taken steps to ensure compliance with the aforementioned insurance laws.

UNDERWRITING – FORMS / POLICYHOLDER SERVICES

Issue E1: Failure, in some cases, to incorporate the fraud warning language required by Colorado insurance law.

Section 10-1-128(6)(a) C.R.S. Fraudulent insurance acts - immunity for furnishing information relating to suspected insurance fraud - legislative declaration, states:

(6) (a) Each insurance company shall provide on all printed applications for insurance, or on all insurance policies, or on all claim forms provided and required by an insurance company, or required by law, whether printed or electronically transmitted, a statement, in conspicuous nature, permanently affixed to the application, insurance policy, or claim form substantially the same as the following:

"It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies."

Upon a complete review of the Company's forms for Long-term Care, Medicare Supplement and Health Insurance business, it appeared in some cases, there was no fraud warning statement on any of the three form options. Additionally, when a fraud warning statement was used by the Company, it was not displayed in a conspicuous nature, permanently affixed to the form **and/or** substantially similar to the language specified in Section 10-1-128(6)(a) C.R.S.

The following is the Company's fraud warning statement,

"REQUIRED COLORADO, OHIO, AND KENTUCKY FRAUD WARNING –
Anyone who submits an application or claim that contains a false or misleading statement knowing that they will be defrauding or helping to defraud an insurer is guilty of insurance fraud, which is a crime."

Therefore, it appears that the Company's forms are not in compliance with Colorado insurance law.

Although the Company's 125 product series form was approved by the Division as early as 1999, and subsequently thereafter through 2003, the forms contained a fraud warning statement that did not include language "substantially the same" as required by §10-1-128 (6). However, in early 2004, the 125 product series was replaced with the 128 product series, in which the 128 product series forms contained suitable fraud warning language.

During the course of the examination, the Company revised the fraud warning statement for the long-term care and health claim forms, using language substantially the same as required by Colorado insurance law.

Recommendation No. 2:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-1-128 C.R.S. In the event the Company is unable to show such proof, the Company should provide evidence to the Division of Insurance that it has taken steps to ensure compliance with the aforementioned insurance law, to include the appropriate filings with the Division.

<p>Issue E2: Failure to include a policy provision that provides for a refund of unearned premium when a policy is replaced by another Medicare supplement carrier or a request for cancellation is made by the insured.</p>

Colorado Regulation 4-3-1, Minimum Standards for Medicare Supplement Policies, states in part:
Section 6. Policy Provisions

D. All Medicare supplement insurance policies shall provide for a refund of unearned premium, when the policy is replaced by another Medicare supplement carrier or given a request for cancellation by the insured.

Upon reviewing the Company's policy forms for the 125 product series, Examiners found that the forms did not contain language consistent with the requirements of Colorado Regulation 4-3-1, Section 6(D). Therefore, it appears that the Company's forms were not in compliance with the requirements of Colorado Regulation 4-3-1.

Although the Company forms did not include the language required by Colorado Regulation 4-3-1, Section 6(D), Company procedures appear to provide for the refund of unearned premium as required.

Recommendation No. 3:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Colorado Regulation 4-3-1. In the event the Company is unable to show such proof; it should provide evidence to the Division of Insurance that it has taken steps to ensure that policyholders are notified of the additional language/benefits and that the required provisions are incorporated into the Company's forms. The required filings should also be submitted to the Division of Insurance.

Issue E3: Failure to include the definition of “Health care expenses” in policy forms, as required by Colorado insurance law.
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Colorado Regulation 4-3-1 Minimum Standards for Medicare Supplement Policies, states in part:

Section 5. Policy Definitions and Terms

No policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy or certificate unless such policy or certificate contains definitions or terms which conform to the requirements of this Section.

...D. "Health care expenses" means expenses of health maintenance organizations associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers. Such expenses shall not include:

- (1) Home office and overhead costs;
- (2) Advertising costs;
- (3) Commissions and other acquisition costs;
- (4) Taxes;
- (5) Capital costs;
- (6) Administrative costs; and
- (7) Claims processing costs...

The Company's 125 product series policy forms do not include the above definition, as required by Colorado Regulation 4-3-1, Section 5 and as a result, it appears the Company's forms are not in compliance, as outlined above.

Recommendation No. 4:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Colorado Regulation 4-3-1. In the event the Company is unable to show such proof; it should provide evidence to the Division of Insurance that it has taken steps to ensure that policyholders are notified of the additional language and that the required provisions are incorporated into the Company's forms. The required filings should also be submitted to the Division of Insurance.

SUMMARY OF ISSUES AND RECOMMENDATIONS

ISSUES	Rec. No.	Page No.
COMPANY OPERATIONS / MANAGEMENT		
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Issue E1: Failure, in some cases, to incorporate the fraud warning language required by Colorado insurance law.	2	18
Issue E2: Failure to include a policy provision that provides for a refund of unearned premium when a policy is replaced by another Medicare supplement carrier or a request for cancellation is made by the insured.	3	19
Issue E3: Failure to include the definition of “Health care expenses” in policy forms, as required by Colorado insurance law	4	20

Independent Market Conduct Examiners

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